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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,994	01/22/2002	Jim Hunter	8229-018-27 CIP	2175

7590 01/12/2005
Supervisor, Patent Prosecution Services
PIPER MARBURY RUDNICK & WOLFE LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

EXAMINER

AMARI, ALESSANDRO V

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

11A

Advisory Action

Application No.

10/050,994

Applicant(s)

HUNTER ET AL.

Examiner

Alessandro V. Amari

Art Unit

2872

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 28 December 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
 2. ☐ The proposed amendment(s) will not be entered because:
 (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ they raise the issue of new matter (see Note below);
 (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
 4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
 6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
 7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-10.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
 9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
 10. ☐ Other: _____


MARK A. ROBINSON
 PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: The claims as finally rejected do not distinguish the claimed reflective light processing element from the prior art cited. Firstly, the withdrawal of the Godil rejection has no bearing on whether the applicants have established a conception and reduction to practice and the Examiner has not concluded as such. The issue in the previous office action was directed to the affidavits, which attempted to swear behind the Hawkins et al reference. If the applicants are ultimately successful in overcoming the filing date of the Hawkins reference, then the Godil reference would be applied. Secondly, the Examiner at the time of the final rejection, had considered all the evidence in its entirety, including the declaration and exhibits. The Examiner reviewed the declaration and attempted to correlate the statements in the declaration with exhibits and found that they were not supported. The Examiner explicitly mentioned several features as not being shown in the exhibits despite the statements in the declaration. Finally, the applicants in the current after final amendment still have not provided facts sufficient to show reduction to practice prior to the effective date of the Hawkins reference, namely test results. Therefore, the Examiner's statements in the final rejection that the evidence submitted is insufficient to establish a conception of the invention and reduction to practice prior to the effective date of the Hawkins reference stands.